

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

VARTKES BOURMAIAN,
 #96851

Plaintiff,

vs.

DOUGLAS GILLESPIE, *et al.*,

Defendants.

2:10-cv-02233-JCM-GWF

ORDER

This matter is before the Court on Plaintiff's Motion for Re-Service of Unserved Defendants (#11), filed May 10, 2011.

By way of this motion, Plaintiff requests that the Court enter an order allowing him additional time to serve certain named defendants or, alternatively, to serve the defendants by publication. Specifically, Plaintiff is seeking additional time to serve Defendants NaphCare, Inc., Cornelius Henderson (named as "Nurse Cornelius"), Louis Rospowl (named as "Nurse Louis"), and Patricia Oliver (named as "Nurse Pat"). Each of these defendants has appeared in this case through their attorneys of record at the law firm of Alverson, Taylor, Mortensen & Sanders. On June 1, 2011, these defendants filed a motion to dismiss the claims against them pursuant to Rule 12(b)(6). *See* (#14). In that motion, the defendants concede service and do not question sufficiency of service of process.

Additionally, Plaintiff seeks an order allowing for additional time to serve Defendant Simone Russo, M.D. As with the other defendants, Defendant Russo has appeared through counsel. On June 6, 2011, he joined in the other defendants Rule 12(b)(6) motion and filed his own memorandum of points and authorities supporting the request for dismissal. *See* (#17). In that motion, Defendant Russo neither raises nor questions service.

1 Based on the foregoing, the Court finds that Plaintiff's motion is moot. Each of the
2 defendants for whom service is requested has either conceded or waived the right to challenge
3 service by filing a Rule 12(b)(6) motion without challenging process pursuant to Rule 12(b)(4) or
4 service of process pursuant to Rule 12(b)(5). *See* FED. R. CIV. P. 12(h)(1)(A).

5 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Re-Service of Unserved
6 Defendants (#11) is **denied** as moot.

7 DATED this 17th day of June, 2011.

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10 **GEORGE FOLEY, JR.**
11 **United States Magistrate Judge**
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